



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed December 19, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services in regard to FoodShare benefits (FS), a hearing was held on February 20, 2014, at Waukesha, Wisconsin.

The issue for determination is whether the agency properly terminated the Petitioner's benefits effective December 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Kathy Jones

Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. On January 4, 2013, Petitioner applied for FS benefits for herself and her adult son. Petitioner reported that the household income consisted of her unearned income of \$1,130.90/month. Petitioner purchases and prepares food for her son.

3. On January 31, 2013, Petitioner's application for FS benefits was approved. Petitioner received \$159 in FS benefits for January, 2013 and \$177/month effective February, 2013. The Notice of Decision issued to the Petitioner informed her that if her household's totally monthly gross income goes over \$1,640, it must be reported to the agency by the 10th day of the next month.
4. In July, 2013, Petitioner's adult son obtained employment. He did not report his employment or wages to the agency. Petitioner reported his employment to the agency via a written note received on October 28, 2013.
5. On September 9, 2013, the agency issued a Notice of Decision to the Petitioner informing her that her FS benefits would increase effective October 1, 2013 to \$181/month. The notice also informs the Petitioner that her household must report to the agency by the 10th day of the next month if gross household income exceeds \$1,681 in any month.
6. Petitioner's son earned \$21,103.36 in the 3rd quarter of 2013. He continues to work for the same employer. On October 30, 2013, the agency sent a request for verification of employment and wages. The Petitioner's son has refused to provide any information or to allow the Petitioner to provide information to determine actual wages so that the agency could properly determine eligibility for FS benefits. Petitioner's employer has also not cooperated.
7. On November 11, 2013, the agency issued a Notice of Decision to the Petitioner notifying her that her FS benefits would end effective December 1, 2013 due to her son's failure to cooperate and provide verification and his failure to report income exceeding \$1,640 and \$1,681 to the agency.
8. On December 19, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Gross non-exempt income must be verified for all food unit members. FoodShare Handbook (FSH) § 1.2.4.1. and 7 Code of Federal Regulations (CFR) § 273.2 (f)(1)(i).

The applicant or recipient has primary responsibility for providing required verification and for resolving any discrepancies or questionable information. If all attempts to verify the information have been unsuccessful because the person or organization providing the information has failed to cooperate with the agency (for example, by refusing to complete a verification form), the agency may use the best available information. FSH § 1.2.1.3 and 7 CFR 273.2(f)(5).

In this case, the Petitioner's son failed to report his employment and income in excess of \$1,640 and \$1,681 by the 10th day of the next month starting in July, 2013. He has continued to act contrary to federal and state regulations by refusing to provide information and telling the Petitioner that she may not provide information to the agency. Therefore, the agency may use the best information available which is the state wage match. In this case, the Petitioner's son's 3rd quarter wages of \$21,103.36 reported to DILHR clearly exceed the gross income limit for FS eligibility for a household of two (\$2,522/month).

Petitioner testified that discontinuing her benefits will be a hardship on her as she lives on a fixed income, has housing expenses, insurance, car expenses, food expenses, etc. I recognize that the Petitioner will likely suffer the consequences for her son's actions; however, the agency has acted properly to discontinue benefits to a household that clearly exceeds the limit of eligibility for public assistance benefits.

CONCLUSIONS OF LAW

The agency acted properly to discontinue FS benefits to Petitioner and her son effective December 1, 2013.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is hereby dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

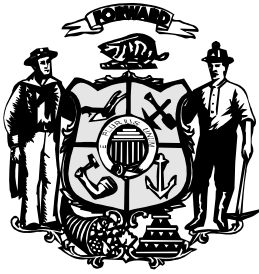
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 12th day of March, 2014

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 12, 2014.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability